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HOUSE JOINT MEMORIAL 38
48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY
Ni ck L. Salazar

A JOINT MEMORIAL

RECOGNIZING THE COMMUNITY OF CHIMAYO'S CHILE FARMERS, WHO ACTIVELY FARM THE NATIVE CHIMAYO CHILE STRAIN IN THE GEOGRAPHICAL AREA OF CHIMAYO, AS THE RIGHTFUL OWNERS OF THE NAMES CHIMAYO, CHIMAYO RED, CHIMAYO GREEN AND CHIMAYO CHRISTMAS FOR CHILE AND AS TREASURERS OF A LIVING HEIRLOOM OF NORTHERN NEW MEXICO HISPANIC CULTURAL, FOOD AND AGRICULTURAL TRADITIONS; REQUESTING THE NEW MEXICO DEPARTMENT OF AGRICULTURE, WITH ASSISTANCE FROM THE ATTORNEY GENERAL, TO STUDY THE ISSUE OF TRADEMARKS AND COPYRIGHTS OF COMMUNITY FARM PRODUCTS.

WHEREAS, it is the desire of the New Mexico legislature that the name "Chimayo" for chile shall continue to be the name that identifies the native strain of chile that was inherited from the traditional families who founded and named

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1 the village of Chimayo, New Mexico; and

2 WHEREAS, in 2005, the New Mexico legislature recognized
3 Chimayo chile as a living heirloom of northern New Mexico
4 Hispanic cultural, food and agricultural traditions; and

5 WHEREAS, the chile that is known as Chimayo chile,
6 Chimayo red, Chimayo green and Chimayo Christmas chile is a
7 specific land race particularly adapted to and cultivated in
8 the geographical area of Chimayo; and

9 WHEREAS, the name Chimayo in relation to chile signifies
10 the fruit from the native chile seeds grown in the
11 geographical area of Chimayo, New Mexico; and

12 WHEREAS, the name Chimayo green denotes, in New Mexico's
13 oral history, the name of the native strain of Chimayo chile
14 when it is in its first stage of edible maturation when the
15 color of the chile is green; and

16 WHEREAS, the name Chimayo red indicates, in New Mexico's
17 chile traditions, the name of the native strain of Chimayo
18 chile when it is fully mature, is at its seed-bearing stage
19 and is the color red; and

20 WHEREAS, the name Chimayo Christmas chile means, in New
21 Mexico's hottest traditions, the name of the native strain of
22 Chimayo chile when the fruit is part green and part red; and

23 WHEREAS, it is right and proper for the names that grew
24 out of the chile farming traditions of New Mexico to be
25 maintained for the benefit of those who continue the living

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1 traditions from which they came; and

2 WHEREAS, the active Chimayo chile farmers who are farming
3 Chimayo chile in Chimayo are keepers of the living traditions
4 that brought about the use of the name Chimayo for chile; and

5 WHEREAS, in confirmation of the common law, wherein the
6 Chimayo chile farmers' cultivation history contributed to four
7 hundred five years of northern New Mexico's chile growing and
8 language traditions, it is right and proper for New Mexico to
9 recognize the community of Chimayo's chile farmers, who are
10 actively cultivating the native Chimayo chile strain in the
11 geographical area of Chimayo, as the rightful owners of the
12 trademark and trade name "Chimayo", including Chimayo red,
13 Chimayo green, and Chimayo Christmas, for the heirloom chile
14 that they continue to grow;

15 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
16 STATE OF NEW MEXICO that the community of Chimayo's chile
17 farmers, who actively farm the native Chimayo chile strain in
18 the geographical area of Chimayo, be recognized as the
19 rightful owners of the name "Chimayo", having full authority
20 to register the Chimayo name and any logo incorporating such
21 name, with the United States patent and trademark office and
22 other appropriate entities; to establish the rules of usage,
23 certification standards and manner of control of the Chimayo
24 name, logo and trademarks; and to enforce their rights in such
25 name, logo and trademarks against any third parties using or

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1 registering the Chimayo name improperly on chile or related
2 goods and services; and

3 BE IT FURTHER RESOLVED that the New Mexico department of
4 agriculture be requested to study the trademarking and
5 copyrighting of community farm products on behalf of the
6 community of active Chimayo chile farmers, who are farming
7 Chimayo chile in Chimayo, with the goal of enforcing their
8 rights in name, logo and trademarks relative to third parties
9 using or registering the Chimayo name improperly on chile or
10 related goods and services; and

11 BE IT FURTHER RESOLVED that the attorney general be
12 requested to assist the New Mexico department of agriculture
13 with information on trademark and copyright law as it relates
14 to agricultural products and their marketing or promotion; and

15 BE IT FURTHER RESOLVED that the director of the New
16 Mexico department of agriculture report the study's findings
17 and make recommendations for legislation no later than
18 December 2007 to the appropriate committee designated by the
19 New Mexico legislative council to review this issue; and

20 BE IT FURTHER RESOLVED that a copy of this memorial be
21 transmitted to the director of the New Mexico department of
22 agriculture and the attorney general.